

App. No.: 10/708728
Filed: March 20, 2004
Conf. No.: 2727

Page 6 of 6

REMARKS

The indicated allowability of claims 8-16, subject to their being rewritten in independent form is noted with appreciation. Claims 8 and 9 have been so rewritten. In rewriting claim 8 in independent form an obvious error noted in claim 7 upon which it depended has been noted and corrected both in the rewritten claim and in claim 7. Aside from that, claims 1-7 are submitted for reconsideration without further amendment for the reasons now to be set out.

Claim 1 has been rejected on the combination of three references with Mizumura et al being treated as the basic reference by the Examiner. Rather than showing a simplified lubricating system with a minimum of connecting conduits this reference shows a very complicated system having an oil pump that is not disposed in the oil pan as is specifically claimed but is positioned well above it requiring a number of communicating conduits between the pump, the oil filter, the oil cooler and other components of the engine and transmission which it lubricates.

Although the Examiner admits the deficiencies of the basic reference, he alleges that the two secondary references teach a substitution that would meet the claim language. It is most respectfully submitted that this is not true. Why would one skilled in the art modify the basic reference from these teachings when to do so would apparently render the basic reference totally unsuited for its intended purpose? Rather it appears that the Examiner is attempting to build applicant's claimed structure from bits and pieces of the prior art.

If the Examiner maintains his position, he is most respectfully requested that he explain more fully how the references would be combined.

Applicant's attorney apologizes for not providing the Examiner with a copy of the Japanese Publication referred to in the specification. That art was cited in the corresponding Japanese application upon which this case was based but the undersigned was aware of the Saito patent which he prosecuted and felt was more relevant. Nevertheless an IDS and copy of the Japanese Publication is attached as is a credit card authorization for the IDS fee.

Favorable action is most respectfully requested.

Respectfully submitted:



Ernest A. Beutler
Reg. No. 19901

Phone (949) 721-1182

Pacific Time